IN THE COURT OF APPEALS OF THE STATE OF IDAHO

Docket No. 34822

STATE OF IDAHO,	)	**2008 Unpublished Opinion No. 587**
	)	
Plaintiff-Respondent,	)	**Filed: August 6, 2008**
	)	
v.	)	**Stephen W. Kenyon, Clerk**
	)	
SHELLY D. KNUDSON,	)	**THIS IS AN UNPUBLISHED**
	)	**OPINION AND SHALL NOT**
Defendant-Appellant.	)	**BE CITED AS AUTHORITY**
	)	

Appeal from the District Court of the Fourth Judicial District, State of Idaho, Ada County. Hon. Thomas Neville, District Judge.

Judgment of conviction and unified sentence of ten years, with a minimum period of confinement of one year, for driving under the influence of alcohol and/or drugs, affirmed. Order relinquishing jurisdiction, affirmed.

Molly J. Huskey, State Appellate Public Defender; Diane M. Walker, Deputy Appellate Public Defender, Boise, for appellant.

Hon. Lawrence G. Wasden, Attorney General; Kenneth K. Jorgensen, Deputy Attorney General, Boise, for respondent.

PER CURIAM

Shelly D. Knudson was convicted of driving under the influence of alcohol and/or drugs, Idaho Code §§ 18-8004, -8005(5). The district court imposed a unified sentence of ten years, with a minimum period of confinement of one year, and retained jurisdiction. At the conclusion of the retained jurisdiction period, the district court relinquished jurisdiction and ordered execution of the original sentence. Knudson appeals, contending that the sentence is excessive and that the district court abused its discretion by relinquishing jurisdiction.

Sentencing is a matter for the trial court's discretion. Both our standard of review and the factors to be considered in evaluating the reasonableness of a sentence are well established and need not be repeated here. *See State v. Hernandez*, 121 Idaho 114, 117-18, 822 P.2d 1011, 1014-15 (Ct. App. 1991); *State v. Lopez*, 106 Idaho 447, 449-51, 680 P.2d 869, 871-73 (Ct. App. 1984); *State v. Toohill*, 103 Idaho 565, 568, 650 P.2d 707, 710 (Ct. App. 1982). When reviewing

the length of a sentence, we consider the defendant's entire sentence. *State v. Oliver*, 144 Idaho 722, 726, 170 P.3d 387, 391 (2007). Applying these standards, and having reviewed the record in this case, we cannot say that the district court abused its discretion.

The decision as to whether to place a defendant on probation or, instead, to relinquish jurisdiction is committed to the discretion of the sentencing court. *State v. Lee*, 117 Idaho 203, 205-06, 786 P.2d 594, 596-97 (Ct. App. 1990). It follows that a decision to relinquish jurisdiction will not be disturbed on appeal except for an abuse of discretion. *State v. Chapman*, 120 Idaho 466, 472, 816 P.2d 1023, 1029 (Ct. App. 1991). The standards governing the trial court's decision and our review were explained in *State v. Merwin*, 131 Idaho 642, 962 P.2d 1026 (1998):

> "Refusal to retain jurisdiction will not be deemed a 'clear abuse of discretion' if the trial court has sufficient information to determine that a suspended sentence and probation would be inappropriate under [the statute]." While a Review Committee report may influence a court's decision to retain jurisdiction, "it is purely advisory and is in no way binding upon the court." Idaho Code § 19-2521 sets out the criteria a court must consider when deciding whether to grant probation or impose imprisonment. . . . "A decision to deny probation will not be held to represent an abuse of discretion if the decision is consistent with [the § 19-2521] standards."

Id. at 648-49, 962 P.2d at 1032-33 (citations omitted). The record in this case shows that the district court properly considered the information before it and determined that probation was not appropriate. We hold that the district court did not abuse its discretion.

Therefore, Knudson's judgment of conviction and sentence and the order relinquishing jurisdiction are affirmed.